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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PATRICIA WRIGHT,

Plaintiff,

vs.

**MALCOLM S. GERALD &
ASSOCIATES, INC.,**

Defendant.

) Case No.

)

) **COMPLAINT FOR VIOLATION**

) **OF THE PENNSYLVANIA FAIR**

) **CREDIT EXTENSION**

) **UNIFORMITY ACT,**

) **PENNSYLVANIA UNFAIR TRADE**

) **PRACTICES AND CONSUMER**

) **PROTECTION LAW, AND**

) **FEDERAL FAIR DEBT**

) **COLLECTION PRACTICES ACT**

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Pennsylvania Fair Credit Extension Uniformity Act and Pennsylvania Unfair Trade Practices and Consumer Protection Law. Furthermore, Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

III. PARTIES

3. Plaintiff, Patricia Wright (“Plaintiff”), is a natural person residing in Dauphin county in the state of Pennsylvania, and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3).

4. At all relevant times herein, Defendant, Malcolm S. Gerald & Associates, Inc., (“Defendant”) was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a “debt,” as defined by 15 U.S.C. §1692a(5). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

5. In April 2011 and at various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

6. Defendant contacted Plaintiff at phone number (717) 651-0348 regarding an alleged debt bearing reference no. 7180541.

1 7. Defendant contacted Plaintiff at times and places that were known or
2 should have been known to be inconvenient, including but not limited to calls
3 made at Plaintiff's school.
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5 8. On average, Plaintiff received from Defendant, more than two
6 collections calls per day in connection with an attempt to collect an alleged debt.
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8 9. In connection with an attempt to collect an alleged debt from
9 Plaintiff, Defendant falsely represented that a person was an attorney.
10

11 **COUNT I: VIOLATION OF THE PENNSYLVANIA FAIR CREDIT**
12 **EXTENSION UNIFORMITY ACT**

13 10. Plaintiff hereby incorporates all facts and allegations set forth in this
14 Complaint by reference as if fully set forth at length herein.
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16 11. The Pennsylvania Fair Credit Extension Uniformity Act
17 ("PaFCEUA") 73 P.S. § 2270.1 *et seq.* prohibits harassing and deceptive conduct
18 by creditors while engaging in the practice of collecting a debt from consumers.
19

20 12. Section 2270.5 of the PaFCEUA allows consumers to recover
21 damages against creditors who engage in unfair and deceptive debt collection
22 practices under the Pennsylvania Unfair Trade Practices and Consumer Protection
23 Law ("PUTCPL").
24

25 13. Plaintiff is a "consumer" as defined by § 2270.3 of the PaFCEUA.
26

27 14. Defendant is a "creditor" as defined by § 2270.3 of the PaFCEUA.
28

1 15. Defendant's conduct violated the PaFCEUA in multiple ways,
2 including but not limited to:

- 3
- 4 a) Causing Plaintiff's telephone to ring repeatedly or
5 continuously with intent to harass, annoy or abuse Plaintiff;
- 6
- 7 b) Communicating with Plaintiff at times or places which
8 were known or should have been known to be inconvenient
9 for Plaintiff;
- 10 c) Repeatedly contacting Plaintiff at his/her place of
11 employment after being informed that such calls are
12 inconvenient to Plaintiff and violate the policy of
13 Plaintiff's employer;
- 14 d) Falsely representing the character, amount, or legal status
15 of Plaintiff's debt;
- 16
- 17 e) Using false, deceptive, or misleading representations or
18 means in connection with collection of a debt;

19 16. As a result of the above violations of the PaFCEUA Plaintiff
20 suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation,
21 embarrassment, mental anguish and emotional distress, and Defendant is liable to
22 Plaintiff for Plaintiff's actual damages, statutory damages, and costs and
23 attorney's fees.
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**COUNT II: VIOLATION OF THE PENNSYLVANIA UNFAIR TRADE
PRACTICES AND CONSUMER PROTECTION LAW**

17. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

18. Defendant's conduct as set forth above constitutes an unfair or deceptive practice within the meaning of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §201-1, et seq.

19. Defendant's violation of the Pennsylvania Unfair Trade Practices and Consumer Protection law has caused Plaintiff to suffer the damage set forth hereinabove.

20. Plaintiff is entitled to triple damages and attorneys' fees as a result of Defendant's conduct, pursuant to 73 P.S. §201-9.2.

**COUNT III: VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT**

21. Plaintiff reincorporates by reference all of the preceding paragraphs.

22. Defendant's conduct violated the FDCPA in multiple ways, including but not limited to:

- a) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (§1692c(a)(1));

1 b) Causing Plaintiff's telephone to ring repeatedly or
2 continuously with intent to harass, annoy or abuse
3 Plaintiff (§1692d(5)); and

4 c) Falsely representing that an individual is an attorney
5 (§1692e(3)).
6

7 23. As a result of the above violations of the FDCPA Plaintiff suffered
8 and continues to suffer injury to Plaintiff's feelings, personal humiliation,
9 embarrassment, mental anguish and emotional distress, and Defendant is liable to
10 Plaintiff for Plaintiff's actual damages, statutory damages, and costs and
11 attorney's fees.
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16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff respectfully prays that judgment be entered
18 against the Defendant for the following:
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- 20 A. Declaratory judgment that Defendant's conduct
21 violated the FDCPA;
22 B. Actual damages;
23 C. Statutory damages;
24 D. Costs and reasonable attorney's fees; and,
25 E. For such other and further relief as may be just and proper.
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PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 17th day of October, 2011.

By: /s Cynthia Levin
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